

Remarks

These Remarks are in reply to the Office Action mailed April 5, 2006. Examiner Hoffman is thanked for holding an after final interview on Wednesday July 26, 2006 at 09:00AM with the Applicant.

With respect to the April 5, 2006 Office action and point 4, Examiner Hoffman believes that the phrase cutting blade extending from "each of the tines" was not sufficiently specific. The Applicant has amended the claim to specify that "a first cutting blade extending from the inner side of said first and said second tines". Examiner Hoffman also clarified that the blades in Bertagnoli could be considered parallel to the handle from an overhead perspective view and therefore the Applicant has added the limitation "such that with the handle moving in a horizontal plane the blades will cut parallel grooves in the horizontal plane". The amendments introduced into Claims 1 and 48 are supported in the specification at least at paragraph [0050]. Amendments to Claims 2 and 47-50 are supported in the specification at least at paragraph [0047].

Claims 1-12 and 47-50 were pending in the Application prior to the outstanding Office Action. The Office Action rejected Claims 1-12 and 47-50. In the present reply, the Applicant amends Claims 1, 2 and 47-51. The Applicant respectfully requests that the Examiner reconsider the rejection, since it is the Applicants belief that Claims 1-12 and 47-50 are now in condition for allowance.

Claim Rejections Under 35 U.S.C. § 102

Within the Office Action, Claims 1-12 and 47-50 were rejected under 35 U.S.C. 102(e) as being anticipated by PG-PUB 2005/0113842 to Bertagnoli et al.(hereinafter "*Bertagnoli*").

Claims 1-12 and 47-50

Claims 1 and 48 have been amended to include the limitation of a first and a second cutting blade from a first tine and a second tine. Since *Bertagnoli* does not disclose a forked end having a first tine and a second tine, wherein said first and said second tines having an inner side and an outer side, a first cutting blade extending from the inner side of said first and said second tines and extending in a first direction from said first and said second tines; wherein the first cutting blade is adapted to cut a groove in a first vertebral body in the first direction, and a second cutting blade extending from an outer side of said first and said second tines and extending in a second direction from said first and said second tines”, *Bertagnoli* does not anticipate amended Claims 1 and 48.

Claims 2-12 all directly or indirectly depend from independent claim 1, and are therefore believed patentable for at least the same reasons as independent claim 1 and because of the additional limitations of these claims.

Claims 47, 49 and 50

Claims 47, 49 and 50 have been amended to include the limitation that “such that when the first pair of cutting blades cut first grooves in a horizontal plane the second pair of cutting blades will cut second grooves in a horizontal plane, wherein the first and second grooves are parallel”, “such that when the first pair of cutting blades cut grooves in a horizontal plane the second pair of cutting blades will cut parallel grooves in the horizontal plane” and “such that with the handle moving in a horizontal plane the first and second cutting blades will cut parallel grooves in the horizontal plane”.

The amended claims include the limitation that the cutting blades cut grooves that are horizontal when either the handle or the cutting grooves cut in the horizontal plane. In contrast, *Bertagnoli* does not disclose "such that when the first pair of cutting blades cut grooves in a horizontal plane the second pair of cutting blades will cut parallel grooves in the horizontal plane". Accordingly, *Bertagnoli* does not anticipate Claims 47, 49 and 50.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the 102(e) rejection.

CONCLUSION

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

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Respectfully submitted,

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